IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

PHERAH LLC, Plaintiff, **v.** **RED BULL NORTH AMERICA, INC.** Defendant.	**CIVIL ACTION NO 6:17-cv-287** **JURY TRIAL DEMANDED**

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

1. This is an action for patent infringement in which Pherah LLC makes the following allegations against Red Bull North America, Inc.

PARTIES

2. Plaintiff Pherah LLC ("Plaintiff" or "Pherah") is a Texas limited liability company with its principal place of business at 5068 West Plano Parkway, Plano, Texas, 75093.

3. On information and belief, Red Bull North America, Inc. ("Defendant" or "Red Bull") is a corporation organized and existing under the laws of the State of California, with its principal place of business at 1740 Stewart St, Santa Monica, CA 90404.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendant has transacted business in this district, and has committed and/or induced acts of patent infringement in this district.

6. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at

least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. RE44,652

7. Plaintiff is the owner of United States Patent No. RE44,652 ("the '652 patent") entitled "Computer-Readable Data Product For Managing Sales Information." The '652 Patent issued on December 17, 2013. A true and correct copy of the '652 Patent is attached as Exhibit A.

8. Defendant owns, uses, operates, advertises, controls, sells, and otherwise provides products and/or services that infringe the '652 patent. The '652 patent provides, among other things, "[a] non-transitory computer program product readable by a computing system and encoding a set of computer instructions implementing a method for managing product knowledge comprising a plurality of data items related to products offered for sale by a selling entity, the computing system including a memory arrangement and at least one processing unit, the method comprising: defining a data model for a plurality of data categories, the data model establishing relationships between data categories; receiving in the computer system a plurality of particular data items corresponding to the plurality of data categories; receiving user-defined relationship information for the plurality of particular data items, the relationship information relating each of the plurality of particular data items to another of the plurality of particular data items; presenting the product knowledge, including information about the particular data item, to a user of the system in a manner established by the data model and the user-defined relationship, said presenting being in a selected graphical user interface view defining a hierarchy of the data items from a designated starting point within the hierarchy; wherein the data model is constructed from a plurality of data instance items interconnected using the user-defined relationship items for each data instance item, each data instance item being an input that corresponds to one or more of the data categories and representing at least part of the product knowledge."

9. Defendant directly and/or through intermediaries, made, has made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or services that infringed one or more claims of the '652 patent, including at least Claim 24, in this district and elsewhere in the United States. Particularly, the Defendant's cloud-based, multi-channel commerce platform used to run its online store ("The Accused Instrumentality") comprises a non-transitory computer program product readable by a computing system and encoding a set of computer instructions implementing a method for managing product knowledge comprising a plurality of data items related to products offered for sale by a selling entity, the computing system including a memory arrangement and at least one processing unit. By making, using, importing, offering for sale, and/or selling such products and services, and all like products and services, Defendant has injured Plaintiff and is thus liable for infringement of the '652 patent pursuant to 35 U.S.C. § 271.

10. Based on present information and belief, The Accused Instrumentality software allows a user to define a data model for a plurality of data categories, (e.g., Theme, Online Store, Products, Inventory, Transfers, Collections, Setting for Shipping, Check out etc.), the data model establishing relationships between data categories, as shown below. (e.g., The Accused Instrumentality allows for users to define a model set of data categories which the interface then uses to establish the relationships between the actual data categories in use).

11. Based on present information and belief, The Accused Instrumentality software receives in a computer system (For example, PC, tablet or smartphone) a plurality of particular data items corresponding to the plurality of data categories (e.g., Product variant, SKU, when sold out, Incoming, Quantity, Update quantity corresponding to the "Products"/data category and Order, Date, Customer, Payment status, Fulfillment status, Total corresponding to the "Orders"/data category). On present information and belief, The Accused Instrumentality software receives data items such as Product variant, SKU, when sold out, Incoming, Quantity and Update quantity from the user/seller and displays on a computer system.

12. Based on information and belief, The Accused Instrumentality software receives user-defined relationship information for a plurality of particular data items (e.g., Product variant, SKU, when sold out, Incoming, Quantity, Update quantity corresponding to the "Products"/data category.), the relationship information relating each of the plurality of particular data items to another of the plurality of particular data items (e.g., Update quantity/

data item is related to the Quantity/ data item). On present information and belief, The Accused Instrumentality software allows users to define relationship information between various data items and customize how they interact with each other in The Accused Instrumentality interface in various data categories (e.g., Products, Shopping cart, Store management, Marketing, Analytics etc.).

13. Based on present information and belief, The Accused Instrumentality system presents product knowledge, including information about the particular data item (e.g., Inventory, Product variant, SKU, when sold out, Incoming, Quantity, Update quantity corresponding to the "Products"/data category), to a user of the system (e.g., any person with access to the system and who can edit and define relationships between the data) in a manner established by the data model and the user-defined relationship, said presenting being in a selected graphical user interface view defining a hierarchy of the data items from a designated starting point within the hierarchy. (e.g. information will be displayed in a hierarchal structure whereas categories contain certain items and those item contain item data, and so on). On present information and belief, The Accused Instrumentality software also presents data graphically to the user organized in a manner consistent with the previously defined data models and user-defined relationships in the desired format Column charts etc.

14. Based on present information and belief, The Accused Instrumentality presents a data model (e.g., Column charts, Inventory table etc.) that is constructed from the plurality of data instance items (e.g., Product variant, SKU, when sold out, Incoming, Quantity, Update quantity corresponding to the "Products"/data category and Column chart in Reports/ Order sales/ Sales by hour) interconnected using the user-defined relationship items (e.g., the parameters set by the user in The Accused Instrumentality's dashboard) for each data instance item, (e.g., Product variant, SKU, when sold out, Incoming, Quantity, Update quantity, Order, Price, Customer, Date etc.) each data instance item (e.g., Product variant, SKU, when sold out, Incoming, Quantity, Update quantity, Order, Price, Customer, Date etc.) being an input that corresponds to one or more of the data categories (e.g., Products/ Inventory, Order, Reports/ Sales etc.) and representing at least part of the product knowledge (e.g., the data instances represent the product knowledge, i.e., the inventory, order and sales of a particular product.).

15. In the alternative, because the manner of use by Defendant differs in no substantial way from language of the claims, if Defendant is not found to literally infringe, Defendant infringes under the doctrine of equivalents.

16. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

17. In addition to what is required for pleadings in patent cases, and to the extent any marking was required by 35 U.S.C. § 287, Plaintiff and all predecessors in interest to the '652 Patent complied with all marking requirements under 35 U.S.C. § 287.

18. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

1. A judgment in favor of Plaintiff that Defendant has infringed the '652 Patent;

2. A judgment and order requiring Defendant to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the '652 Patent as provided under 35 U.S.C. § 284;

3. An award to Plaintiff for enhanced damages resulting from the knowing, deliberate, and willful nature of Defendant's prohibited conduct with notice being made at least as early as the date of the filing of this Complaint, as provided under 35 U.S.C. § 284;

4. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees; and

5. Any and all other relief to which Plaintiff may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Respectfully Submitted,

PHERAH LLC

/s/ Papool S. Chaudhari

Dated: May 9, 2017

By: ______________________________

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